

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 14383 of 2004

Between:

T. Ramachander S/o. Bhoomaiah
Employee Code No. 93871, working
at Asifabad Depot., Adilabad District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Asifabad, Adilabad District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declare the action of the respondents in not issuing posting orders is highly illegal, arbitrary, discriminatory, unjust and violative of Articles 14, 16 and 21 of the Constitution of India and consequently declare that the petitioner is entitled for posting as Driver with all consequential benefits.

Counsel for the Petitioner: MR.VADDEMANI SRINIVAS

Counsel for the Respondent: SMT.P.RAJINI (SC FOR APSRTC)

The Court at the stage of admission made the following:

HONOURABLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.14383 OF 2004

ORDER:

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The petitioner is working as a Driver in the respondent-Corporation since 1980. In the year 1996 a charge sheet was issued to him alleging unauthorized absence. Subsequently, the respondent removed him from service. The petitioner filed W.P.No.2267 of 2000 before this Court questioning the order of removal, and this Court allowed the Writ Petition on 18-06-2002 directing the reinstatement of the petitioner. Since then the petitioner has been working with the respondent.

2. The petitioner contends that due to ill-health, he underwent medical treatment at A.P.V.V.P. Community Hospital, Asifabad from 27-01-2004 to 10-02-2004 for 15 days and the Doctor advised him bed rest during the above mentioned period. The petitioner further contends that the respondent directed him to go for medical treatment, at Tarnaka Hospital, Hyderabad vide proceedings dated 27-01-2004. In view of the above proceedings, he underwent treatment at R.T.C. Hospital, Tarnaka, Hyderabad from 10-02-2004 to 09-06-2004. On 09-06-2004, the Doctor gave him a fitness certificate. Later he approached the respondent with the fitness certificate for joining duty on 10-06-2004. But the respondent till the date of filing of the writ petition did not give him posting orders and did not permit him to join duty. Therefore, he approached this Court seeking a direction to the respondent to permit him to join duty and to issue posting orders.

3. The learned counsel for the respondent represented that since the petitioner was unauthorisedly absent for a considerable period, he was not permitted to join duty.

4. The petitioner is still continuing as an employee of the respondent. He

is entitled to continue in service till the orders, if any, passed by the respondent about his continuation in the Corporation. If there is any unauthorized absence, it can be treated as a misconduct and the respondent is at liberty to initiate disciplinary proceedings against the petitioner and after an enquiry, appropriate orders can be passed. But refusing to permit the petitioner to join duty, amounts to denial of the legitimate right of the petitioner to continue in service of the respondent.

5. The respondent is therefore, directed to permit the petitioner to join duty and give him posting orders. If the respondent is of the view that there is a misconduct on the part of the petitioner by way of unauthorized absence, he is at liberty to pass appropriate orders regarding the treatment of the period of unauthorized absence.

6. The Writ Petition is accordingly disposed of. No order as to costs.

Dr. G.YETHIRAJULU, J

24th August, 2004

SKM

Note:

Furnish C.C. within two days.

B/o.

Skm

TO

1 The Depot Manager, APSRTC,
Asifabad, Adilabad District.

2 Two C.D.Copies.